Before the Administrative Hearing Commission State of Missouri

JOHN LEHN,)
Petitioner,)
VS.) No. 14-1405 RV
DIRECTOR OF REVENUE,)
Respondent.)

DECISION

We dismiss John Lehn's complaint because it was not timely filed.

Procedure

On August 18, 2014, Lehn appealed the Director of Revenue's ("the Director") denial of his application for a motor vehicle sales tax refund. On September 24, 2014, the Director filed a motion, with supporting exhibits, to dismiss the complaint. We treat the motion as a motion for summary decision because it relies on matters other than allegations in the complaint and stipulations. Regulation 1 CSR 15-3.436(4)(A). We will grant the motion if the Director establishes facts that entitle him to a favorable decision and Lehn does not dispute those facts. Regulation 1 CSR 15-446(6)(A).

We gave Lehn until October 9, 2014, to respond to the motion, but he did not respond.

Therefore, the following facts are undisputed.

¹ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

Findings of Fact

1. On June 16, 2014, the Director mailed his final decision denying Lehn's application for a motor vehicle sales tax refund.

2. Lehn filed his complaint with this Commission on August 18, 2014.

3. August 18, 2014, was more than 60 days after June 16, 2014.

Conclusions of Law

Section 144.261, RSMo 2000, provides that we have jurisdiction to hear an appeal from the Director's decision if the complaint is filed "within sixty days after the mailing or delivery of such decision, whichever is earlier." Our findings show that Lehn did not file the complaint within sixty days after the Director mailed the decision. We have no jurisdiction to hear a complaint filed out of time. *Community Fed. Sav. & Loan Assoc. v. Director of Revenue*, 752 S.W.2d 794, 799 (Mo. banc), *cert. denied*, 488 U.S. 893(1988). If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss. *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App. E.D. 2000). Therefore, we must dismiss Lehn's complaint.

Summary

We grant the Director's motion to dismiss the complaint.

SO ORDERED on October 28, 2014.

\s\ Karen A. Winn_ KAREN A. WINN Commissioner